

Rule 5.10A

Public Sale of Real Estate

1. Personal Representative

When it is required that a personal representative petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall also set forth in separate paragraphs, the following:

- a. the name or other designation of the estate; the date of death; whether the decedent died testate or intestate; date of grant of letters; if a decedent's estate, or testamentary trust, or the date and manner of creation, if another type of fiduciary estate. If the petitioner is other than the fiduciary, include the particulars of the fiduciary required herein, and set forth facts sufficient to satisfy the court of the propriety of entertaining the petition by a petitioner other than the fiduciary;
- b. set forth the reason why the personal representative is not otherwise authorized to sell under the Probate, Estates and Fiduciaries Code; or is not authorized or is denied the power to do so by the will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor;
- c. the total value of the personal estate for which they are accountable, as shown in the inventory filed and the inheritance tax appraisal made, if any, and also a statement of the total proceeds of any real estate previously sold or otherwise disposed of;
- d. if the fiduciary has been required to give bond or if additional security may be required, waived or requested, a statement of the amount of the bond or bonds filed by them, if any, and the names of the sureties thereon;
- e. the names and relationships of all interested parties; a brief description of the respective interests; whether any of them are minors, incapacitated persons or deceased, and if so the names of their fiduciaries, if any;
- f. the nature and amount of liens or other claims or charges which are not liens;
- g. whether or not there is any known objection by any party in interest to the grant of relief requested;
- h. a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;

- i. sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate; and
- j. an appropriate request for relief, together with a form of order or decree in accordance therewith.

2. Trustee

When it is required that a trustee petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall also set forth in separate paragraphs, the following:

- a. the name and capacity of the trustee, together with the date and manner of their appointment; how title was acquired, stating the date and place of probate of the will, schedule of distribution, or recording of the deed;
- b. a recital of the relevant provisions of the will or deed pertaining to the real property to be sold or of the history of the trust (references to specific paragraphs or pages of the exhibit may be incorporated by reference rather than recite in detail the appropriate section of the document);
- c. the names and relationships of all interested parties; a brief description of their respective interests; whether any of them are minors, incapacitated persons or deceased, and if so, the names of their fiduciaries if any;
- d. the nature and amount of liens or other claims or charges which are not liens;
- e. whether or not there is any objection by any party in interest to the grant of relief requested;
- f. a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;
- g. the total value of the personal estate for which they are accountable as shown, for example, in the inventory filed (by the will, deed, or schedule of distribution); a statement of the total proceeds of any real estate previously sold or otherwise disposed of;
- h. that the trustee is not authorized to sell under the Probate, Estates and Fiduciaries Code, or is denied the power by the trust instrument; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor;

- i. sufficient facts to enable the court to determine that the proposed sale is for the best interest of the trust;
- and
- j. an appropriate request for relief together with a form of order or decree in accordance therewith

3. Guardian

When it is required that a guardian petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall set forth in separate paragraphs, the following:

- a. name, date, fiduciary designation and manner of appointment of the guardian. If the petitioner not be the guardian, include the particulars relating to the guardian mentioned above as to the propriety of the court's entertaining the petition and the granting of relief to the petitioner, rather than to the guardian;
- b. the age of the ward and date of birth;
- c. the names of their next of kin and that notice has been given them of the presentation of the petition; when there are no known next of kin who are *sui juris* to whom notice may be given, public notice may be required as the court shall by special order in each case designate, if appropriate;
- d. how title was acquired, stating the date and place of probate of the will, the schedule of distribution or recording of the deed; together with a recital of the provisions of the will, schedule of distribution or deed relating to the real estate to be sold;
- e. the nature and extent of the interest of the ward, and of other persons, in the real property, whether any of them are minors, incapacitated persons or deceased and, if so, the names of their fiduciaries, if any;
- f. whether or not there is any objection by any party in interest to the grant of the relief requested;
- g. a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein

which will or may be affected by the relief requested;

h. that the guardian is not otherwise authorized to sell under the Probate, Estates and Fiduciaries Code, or is denied the power by the instrument appointing them; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons thereof.

i. sufficient facts to enable the court to determine that the proposed sale will be for the best interest of the ward; and

j. an appropriate request for relief together with a form of order or decree in accordance therewith.